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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,426	01/14/2002	Thaddeus Marshall	Marshall-5	2585
45722	7590	04/24/2008		
Howard IP Law Group P.O. Box 226 Fort Washington, PA 19034			EXAMINER	
			RETTA, YIHDEGA	
			ART UNIT	PAPER NUMBER
			3622	
			MAIL DATE	DELIVERY MODE
			04/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/047,426

Applicant(s)

MARSHALL, THADDEUS

Examiner

Yehdega Retta

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45 and 46 is/are pending in the application.
4a) Of the above claim(s) 1-44 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 45 and 46 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 6/12/02
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group VII, claims 45 and 46, in the reply filed on January 23, 2008 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 45 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 45 recites "and adding the time points accumulated pertaining to the presence of the individual at the physical commerce location and the credits awarded based on the connection between the client and the network to a time points account associated with the individual". However the claim recites that the award of credits is calculated for the receiving an identification information at a physical location and a time points is calculated for the commencing an accumulated session.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 46 is rejected under 35 U.S.C. 102(c) as being anticipated by Williams (US 2002/0049631).

Regarding claim 46, Willisams teaches enrolling an individual in a rewards program by obtaining individual profile information and storing said information at a program administrator location maintained by a program administrator; requiring identification of the individual at a physical commerce location maintained by a program participant, the identification being based on said stored information (see [0031]); commencing a physical commerce location accumulation session following the identification of the individual; recording physical commerce location information, including at least the time of day, day of week and information pertaining to purchases made at the physical commerce location during the physical commerce location accumulation session (see [0044]); forwarding said recorded physical commerce location information to the program administrator; updating the stored individual profile information at the program administrator location; calculating number of time points accumulated as a result of the physical commerce location accumulation session based on the stored individual profile information and a formula selected by the program participant (see fig. 2, 3, [0020] - [0023], [0029]-[0031], [0040] Williams teaches requiring identification of the individual once a connection to a participant resource has been established, the identification being based on said stored information; commencing an on-line accumulation session following the identification of the individual; recording on-line information, including at least the time of day, the day of the week and the duration of the on-line accumulation session, at a participant's location during the on-line accumulation session; forwarding said on-line recorded information to the program administrator; updating the stored individual information at the program administrator location;

calculating the number of time points accumulated as a result of the on-line accumulation session based on the stored individual information and a formula selected by the participant (see [0029], [0030], [0043], [0044], [0049] and permitting redemption of the earned credits for items of value (see [0044]-[0051]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marks et al. (US 2001/0034651) and further in view of Miller (US 2002/0037232).

Regarding claim 45, Marks teaches receiving identification information relating to an individual at a physical commerce location provided by an individual who is present at the physical commerce location (see [0015], [0016], [0027]- [0034]); correlating received identification information with stored identification information; recording the time of receipt of identification information; calculating an award of credits based at least in part on a correlation between the time of receipt of identification information and predetermined time criteria relating to the award of credits (see [0039]-[0043]); receiving identification information relating to the individual from a client upon the establishment of a connection between the client and a network resource; correlating received identification information with stored identification information; providing credits award for the session) and adding the time points accumulated pertaining to the presence of the individual at the physical commerce location and the credits awarded based on

the connection between the client and the network to a time points account associated with the individual (see [0044]- [0052]). Marks does not explicitly teach commencing an accumulation session; monitoring the time of the accumulation session; calculating time points accumulated in the accumulation session, based at least in part on increasing amounts of credits based upon increasing the duration of the accumulation session, it is taught in Miller (see [0013], [0018], [0020]). Miller teaches receiving identification information relating to an individual from a client upon the establishment of connection between client and a network resource [0011], [0012],[0015], [0016], [0017]); calculating time points accumulated in a accumulation session and providing the credit based on the time period [0013], [0018], [0020]). It would have been to one having ordinary skill in the art at the time of the invention to provide Marks' benefits, for responding to ads, by calculating time points accumulated based on the session, as in Miller, in order to encourage consumer to take the time to view the advertisements.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/

Primary Examiner, Art Unit 3622